

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

MORGAN JEROME BURTON, JR.,)	
#185425,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 3:24-CV-714-WKW
)	[WO]
JACOB WALKER, III, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On January 17, 2025, Plaintiff’s action was dismissed under 28 U.S.C. § 1915(g), and final judgment was entered the same date. (Docs. # 5, 6.) Plaintiff filed a notice of appeal (Doc. # 7), but the United States Court of Appeals for the Eleventh Circuit dismissed the appeal for want of prosecution (Doc. # 10). Subsequently, Plaintiff filed a motion for default judgment (Doc. # 12), which was docketed on March 25, 2025. The motion, which is pending, is construed as a motion to vacate the judgment under Rule 60(b) of the Federal Rules of Civil Procedure. For the reasons to follow, the motion will be denied.

Under Rule 60(b), a party may “seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances including fraud, mistake, and newly discovered evidence.” *Gonzalez v. Crosby*, 545 U.S. 524, 528 (2005). For example, “under Rule 60(b)(1), a party may seek relief from a final judgment

based on mistakes in the application of law.” *MacPhee v. MiMedx Grp., Inc.*, 73 F.4th 1220, 1251 (11th Cir. 2023) (citation omitted).

Plaintiff has not shown any basis for relief from the final judgment under Rule 60(b). The reason for the dismissal of this action was under the three-strikes provision of § 1915(g), which prohibits Plaintiff from proceeding *in forma pauperis*. The dismissal was without prejudice to Plaintiff’s right to refile a non-frivolous action with payment of the full filing fee. (*See* Doc. # 5 at 2–3.) Plaintiff’s motion does not address the court’s ruling that he is subject to § 1915(g)’s three-strikes provision.

Based on the foregoing it is ORDERED that Plaintiff’s construed motion under Rule 60(b) (Doc. # 12) is DENIED.

It is further ORDERED that any relief Plaintiff seeks in his submissions docketed on April 21, 2025, and April 30, 25 (Docs. # 14, 15) is DENIED.

DONE this 4th day of June, 2025.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE